

1 process department are on relief devices?

2 A. Yes.

3 Q. Is the expectation that all the process
4 department employees in your department can do relief
5 device work?

6 A. Yes.

7 Q. This job that you were interviewing him for was
8 going to be mainly relief device work?

9 A. It was a high likelihood that it would be relief
10 device work.

11 Q. This DTT project, would you consider that to be a
12 large project or small project?

13 A. Small.

14 Q. Why would you say it was a small project?

15 A. Because it was a single discipline project. What
16 I mean by that, it did not include engineers from other
17 departments. And it was four, five, six, seven people
18 range of work.

19 Q. Any other reason why you consider it to be a
20 small project?

21 A. No.

22 Q. Do you know what the duration of the DTT project
23 was?

24 A. Yes. I believe the intention was for it to be

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1 been times when Chris Guttridge, when he first started,
2 was doing more complicated work, but he was just getting
3 assistance from Jack Baker?

4 A. It is possible, but not likely.

5 Q. But you do not know for certain?

6 A. I don't know for certain.

7 Q. Okay. So you have the one interview with Chris
8 Guttridge and you said you interviewed how many other
9 people?

10 A. It was two or three from University of Delaware.
11 I think we had two or three candidates.

12 Q. And if you look at Mr. Guttridge -- if you look
13 at Howe 1, it says Mr. Guttridge's dated of birth is 8-22
14 1980; date of hire is 7-21-03. So that would have been,
15 would have made him 22 years old at the time of his hire?

16 A. Sounds right.

17 Q. Do you recall the ages of the other candidates
18 you interviewed?

19 A. No.

20 Q. Do you recall if they were recent college
21 graduates?

22 A. They were all in their final year of college
23 waiting to graduate that May or June.

24 Q. Do you recall if they were under the age of forty

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1 the ones that you interviewed besides Chris Guttridge?

2 A. I presume they were under the age of forty. I
3 don't know that for a fact.

4 Q. Do you know if Guttridge interviewed with anyone
5 else besides you?

6 A. Another person within our company or other
7 companies?

8 Q. Your company.

9 A. Yes. He definitely interviewed with other
10 people. I'm not sure who. I would think maybe Trexler
11 may have interviewed him. And typically we have two or
12 three people interview them. I can't remember who
13 interviewed him.

14 Q. But they are interviewed separately? The
15 interviews are separately, not done in a group setting?

16 A. It is sometimes done in a group and sometimes
17 done separately, depending on people's schedules.

18 Q. What was Trexler's position at the time?

19 A. His title I believe was principal engineer or
20 senior design consultant, senior design specialist, but
21 he was working as a lead engineer on another project.

22 Q. Okay. Do you recall when Chris Guttridge was
23 offered the position?

24 A. Exact date?

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1 Q. Asians?

2 A. Yes.

3 Q. Native Americans?

4 A. I believe so.

5 Q. Do you know if BE&K has an association with
6 Inroads?

7 A. Yes.

8 Q. What is the association with Inroads?

9 A. BE&K has been associated with Inroads for many
10 years. I know that in Birmingham at the head office they
11 have -- I don't know to what extent, but they -- it is
12 led from that -- that is where the association began.
13 The Delaware office has always participated in the
14 program and every year or almost every year I believe
15 that we have hired Inroads students during the summer and
16 during holidays, vacations.

17 Q. I believe the way the program works -- and help
18 me if I'm wrong -- is that BE&K may hire an Inroads
19 college student to work for it during the summer or
20 holidays, like you just mentioned, and potentially that
21 student could be hired in a full-time position after
22 their -- after they graduate from college. Is that true?

23 A. Yes. That's the intent.

24 Q. That is the intent.

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Yes.

But sometimes you may have an Inroads college intern and they are not extended a formal offer after they graduate from college?

That's possible.

Okay. Have there ever been any Inroads students interned in the process department at BE&K?

Yes.

How many people have you had interning? I'm not asking about who were hired, just interning.

A. During my time I believe it was just one.

Q. What was the person's name?

A. Candice Yee, Y-e-e I believe.

Q. Do you know what her race is?

A. I believe she may be of mixed race, possibly some Asian and maybe some African American, but I'm not certain of that.

Q. Do you know when she started interning for BE&K?

A. It is most likely the summer of 2002 or 2003.

Maybe 2003.

Q. Do you know if she was offered a full-time position after she graduated from college?

A. When I left BE&K she had not yet graduated. I believe she is graduating this year.



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1 Q. Okay. I want to introduce another document that 1
2 was provided to the EEOC and it says, "Hires month June 2
3 2004," and it is Bates stamp D 52. This is Howe 4. 3 Cal
4 Please review the document and let me know when you are 4 7,
5 finished. 5

6 (Howe Deposition Exhibit No. 4 marked for 6
7 identification.) 7 de

8 BY MR. ANGLADE: 8

9 Q. Have you reviewed it? 9

10 A. Yes. 10

11 Q. Have you ever seen that document before? 11

12 A. No. 12

13 Q. It appears that this is a list of hires at BE&K 13
14 for the month of June 2004. And it, they have the 14
15 employees listed by their name, gender, date of hire, 15
16 department code and other characteristics. You may not 16
17 know whether this is truly -- let me rephrase. 17

18 I want you to focus on for Candice Yee. Ye 18 tin
19 see that? 19

20 A. Yes. 20

21 Q. It says department code 561. You see that? 21 tin

22 A. Yes. 22

23 Q. Is that the department code for the process 23 ho
24 department? 24 of



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1 A. Yes.

2 Q. Okay. Does that mean -- does this list mean that
3 Candice Yee was hired in the process department on June
4 7, 2004?

5 A. Yes.

6 Q. At that time were you still the process
7 department manager?

8 A. Yes.

9 Q. Do you recall that she was hired full time?

10 A. No. This was not a full-time hire.

11 Q. This is not a full-time hire?

12 A. No.

13 Q. To student intern meaning?

14 A. She was hired for the summer.

15 Q. So she was still a college intern?

16 A. Exactly.

17 Q. You don't know if she was ever hired to be full
18 time for BE&K?

19 A. That's correct.

20 Q. Do you know if 6/7/2004 means that was the first
21 time she was hired to be a college intern for BE&K?

22 A. No. I don't know that. I know if there was --
23 how it works is that she would be hired in the beginning
24 of the summer and then she would be laid off at the end

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1 of the summer.

2 Q. Okay.

3 A. And then next year when she came back again she
4 would go through the same administration and hiring
5 again.

6 Q. I apologize. I think you already answered this,
7 but do you know at that time, 6/7/2004, if she was going
8 to be a senior in the fall? Let me rephrase.

9 Do you know what year she was in college?

10 A. I believe she just finished her first year when
11 she came on.

12 Q. Has BE&K ever hired an Inroads intern into a
13 full-time position at the process department?

14 MS. DiBIANCA: I object to the form.

15 Q. You can answer.

16 A. Not by me. I'm trying to recall if someone
17 before me had and I don't know.

18 Q. You became the process department manager in
19 1999, correct?

20 A. Yes.

21 Q. Then you stopped being process department manager
22 in August of 2004?

23 A. Correct.

24 Q. So from that period, 1999 through August of 2004,

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1 BE&K has never hired in an Inroads college intern to be a
2 full-time employee in the process department?

3 A. Yes.

4 Q. Do you know if they have hired people in other
5 departments?

6 A. Yes.

7 Q. But not process?

8 A. Not process.

9 Q. Okay. Thank you.

10 Now I want to focus back on Juan Obed
11 Perez's termination.

12 MR. ANGLADE: Off the record.

13 (Discussion off the record.)

14 (Recess taken.)

15 BY MR. ANGLADE:

16 Q. I'll submit to you that there's been
17 documentation produced in this litigation that says that
18 Juan Obed Perez stopped working for BE&K on November 21,
19 2003. Do you have any reason to disagree with that?

20 A. No.

21 Q. Okay. Now I want to focus -- and I know we had
22 started this earlier and then we moved to another
23 direction. I believe you testified earlier that
24 Mr. Perez was told -- I'm sorry. I believe you had

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1 It is not just the last couple of years. That's how we
2 operate.

3 Q. When was the first time you started getting
4 concerned that you may have to lose somebody in your
5 department?

6 A. Most likely within the first six months of me
7 becoming department manager.

8 Q. Meaning in 1999?

9 A. Yes.

10 Q. So it was always a concern of yours that you may
11 have to lose somebody?

12 A. Yes.

13 Q. In 2002 was there a greater concern that you
14 might lose somebody?

15 A. I would say that 2001, two and three years were
16 pretty much a steady decline in business.

17 Q. Was there a project in India that the company
18 lost in 2003?

19 A. When you say -- we worked with a company, we
20 partnered with a company in India to do detailed
21 engineering and there was a project which we engineered
22 in India around about that time. I don't know if we lost
23 it, though. The project that was engineered in India I
24 believe was completed.



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1 to a client?

2 A. Yes.

3 Q. Typically you want all your departments to be
4 above 96 percent, at or about 96 percent?

5 A. Yes, in that range somewhere.

6 Q. Okay. You said earlier 92 percent --

7 A. For the company as a whole. Once you add all the
8 management overhead, if you take the whole office, you
9 know that is running at 90 to 92 percent.

10 Q. What was your expectation for the process
11 department, where it should be?

12 A. I'm going to say in the 96 to 98 percent range.

13 Q. If it goes below that, that's when you start to
14 get really concerned?

15 A. Yes.

16 Let me clarify. It is not as simple as
17 saying the process department is on its own and you worry
18 about that. You look at the whole company. For example,
19 if you see, if there's a potential of -- if you know
20 there's a project that is going to be coming in in a
21 month's time, you are not going to lay people off so that
22 you can rehire them in a month's time. That's silly.

23 So if you know -- so that if you are at
24 96 percent or dropping below 96 percent and you know

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1 A. You have to do that, because you have to look at
2 what people are presently working on, what would be the
3 effect of pulling them off a job, what would be the
4 effect on our clients if we made personnel changes. Part
5 of the full process you have to go through.

6 Q. So you did that process for each employee,
7 including Mr. Perez?

8 A. It is not a formal process. It is a thought
9 process you go through in your head.

10 Q. I'm looking at Howe 1. All the employees there
11 as of November 1st, 2003, did you go through each
12 employee and do that analysis?

13 A. That's typically what I would do, yes.

14 Q. What did you mean when you said you also looked
15 at the effect of pulling people off projects?

16 A. Well, when you do what you just said, when you go
17 through you've got to look at who needs to be -- our
18 workload is dropping, who needs to be laid off? Jack
19 Baker, he's a lead on this relief device work. If we
20 pulled him off, Dan Dayton -- it would be unacceptable to
21 our clients.

22 That's what I mean, you go through and look
23 at each person and say what effect would me making a
24 change here have on our business. And that's the number

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1 1 thing you focus on, what is our business effect.

2 Q. Was there ever any consideration of replacing
3 someone with Mr. Perez?

4 A. It is something which you have to go through the
5 thought process of: Is it appropriate to do it?

6 Typically it is extremely difficult to do
7 that in this project based industry. People -- our
8 clients are working with these people. They have gone
9 through a learning curve. Our clients have spent money
10 training them on this project. And so we can't just walk
11 in and say, Jack Baker, I'm pulling you off this job and
12 I'm going to put someone else in there. I know for a
13 fact that Dan Dayton would never have accepted something
14 like that. And any project manager from our client would
15 never accept that.

16 Q. Was it something you thought about as you were
17 doing your analysis?

18 A. Yes.

19 Q. So you did consider whether or not you should
20 pull somebody off a project, lay them off and put
21 Mr. Perez in their position?

22 A. It is the thought process you go through.

23 Q. Now, did you consider whether or not you should
24 have pulled Chris Guttridge off of his project and put

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1 A. I can't remember if he asked the question and I
2 can't remember a response along that particular line.

3 Q. Do you recall if he did ask that question what
4 your answer was likely?

5 A. No.

6 Q. Was he let go because of his performance?

7 A. He was let go because of lack of work and there
8 was nowhere else to put him. So it wasn't directly
9 related to performance at all.

10 Q. If Mr. Perez -- let me rephrase.

11 Mr. Perez testified during his deposition
12 that he asked you the question was it because of my
13 performance and that you answered no. Do you have any
14 reason to disagree with his testimony?

15 A. No.

16 Q. Do you recall anything else that was said between
17 the two of you during this meeting?

18 A. I believe there may have been a discussion about
19 possibly part-time work.

20 Q. What do you mean?

21 A. He may have asked if I -- whether he could go to
22 reduced hours.

23 Q. What did you say?

24 A. I said no.

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1 Q. Why not?

2 A. Because there wasn't a reason -- there wasn't
3 work for reduced hours. There wasn't work for full time
4 or half time. The work didn't exist. In effect he had
5 already been working some part time already.

6 Q. Meaning working reduced hours?

7 A. Not reduced hours. He worked part time billable
8 on projects. His utilization was already low and that
9 had now got to a point where there was nothing left.

10 Q. Do you recall anything else that was said during
11 the meeting besides what you have already testified to?

12 A. No.

13 Q. Now, do you recall ever having a conversation
14 about Mr. -- let me rephrase.

15 Do you recall ever having a conversation
16 with Mr. Perez about the hiring of Christopher Guttridge?

17 A. I spoke to a lot of people about the hiring of
18 Christopher Guttridge, but I do not recall a specific
19 one-on-one communication with Obed Perez on that.

20 Q. Do you recall if Mr. Perez ever questioned why
21 Mr. Guttridge was being hired when the company was
22 concerned about lack of work?

23 A. No. I don't remember that. I don't remember
24 that discussion.

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1 Q. So you never -- you don't recall ever discussing
2 with Mr. Perez questioning why Guttridge was being hired
3 when there was a concern about lack of work?

4 A. This questioning would have happened around about
5 the time when Guttridge was hired?

6 Q. Ever.

7 A. I don't recall it.

8 Q. Probably would have been about the same time that
9 he was hired.

10 A. No. I don't remember that discussion.

11 Q. Do you recall if you ever told Mr. Perez that the
12 company was looking to hire young engineers?

13 A. Yes. I would have spoken about the fact that the
14 company was hiring college graduates.

15 Q. Do you recall if you said college graduates or
16 young engineers?

17 A. Normally I would have said college graduates. I
18 would presume I said college graduates.

19 Q. Is it possible you said young engineers?

20 A. Certainly isn't likely. It certainly is
21 possible, yes.

22 Q. Why is it possible, yes?

23 A. Because I could have said that word. But -- you
24 asked me whether it is possible I did say the word. Yes,

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1 it is possible, I could have said the word.

2 Q. Do you associate recent college graduates to be
3 young people?

4 A. No, not necessarily. I mean, I hired Mike Tweed,
5 who was a recent college graduate that had 25 years of
6 experience or 20 years of experience. There are cases
7 where we have hired people that went to college, you
8 know, halfway through their careers. Mike Tweed was one
9 of them.

10 Q. Do you remember how old Mike Tweed was?

11 A. When I hired him?

12 Q. Yes.

13 A. No, but middle aged.

14 Q. If you look at Howe 1, the entry for Mike Tweed,
15 it says his date of birth, 2-5, 1961; date of hire, 3-6,
16 2000. That would have made him 39 years old at the time?

17 A. Yes.

18 Q. He was a recent college graduate when you hired
19 him?

20 A. Yes -- well, pretty recent. It wasn't direct.
21 Maybe a year or two of experience.

22 Q. The candidates you interviewed for the position
23 Christopher Guttridge eventually received were all young
24 college graduates?

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1 Q. Is it fair to say if you are an employee of
2 Allstates, you have lower job security as opposed to
3 being an employee of BE&K?

4 A. It is possible. However, within BE&K we had
5 Allstates people working for us and we had direct BE&K
6 people working for us. We had Allstates people that had
7 been working for BE&K as long as the company was around
8 and there were some Allstates people that were short
9 term.

10 So it is not by definition, but in general
11 there would typically be less job security.

12 Q. So Allstate employees work with BE&K employees on
13 BE&K projects?

14 A. About 25 percent of the BE&K project staff are
15 Allstates. In fact, I think it might be 30 percent right
16 now.

17 Q. 30 percent of BE&K staff are Allstates?

18 A. In the Delaware office 30 percent of the people
19 working at BE&K are actually Allstate's employees.

20 Q. With respect to actually doing work, is there
21 really a difference between BE&K and Allstate's
22 employees?

23 A. No.

24 Q. Are the Allstate's employees who were working on

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1 BE&K projects supervised by the same BE&K project leads,
2 supervisors, and managers, as the regular, full-time BE&K
3 employees working on the projects?

4 A. Yes.

5 Q. Do you know if when Mr. Perez was being
6 terminated, whether or not he would have been given the
7 opportunity to work at Allstates?

8 A. Yes.

9 Q. Was that something that you considered at the
10 point in time that you were terminating him from BE&K?

11 A. Yes. Almost standard practice for us to give his
12 resume to Allstates. It was David Kim, who is the
13 manager of Allstates, who would then include them in
14 their candidates for potential jobs.

15 Q. Were there any Allstates employees doing process
16 department work in 2003?

17 A. I don't think any of the names on this list are
18 Allstates employees. I believe these are all BE&K
19 employees.

20 Q. When you say "this list," you mean Howe 1, D 28
21 at the bottom?

22 A. Yes.

23 Q. I assume this list only has BE&K employees, so it
24 wouldn't have anybody from Allstates. But I'm asking,

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1 engineers from July 1st, 2003 through June 30th, 2004.

2 Please review that, let me know when you are finished.

3 A. I'm finished.

4 Q. Have you ever seen that document before?

5 A. No.

6 Q. You recognize all the names on the document?

7 A. Yes.

8 Q. I'll submit to you that there's been testimony
9 indicating that these were the process department
10 employees that were discharged from BE&K from November
11 1st, 2003 through June 30, 2004. Would you agree with
12 that?

13 A. Yes.

14 Q. Is there anybody else that should be on this
15 list? Anybody else who was let go?

16 A. Between what date and what date?

17 Q. November 1st, 2003 and June 30th, 2004.

18 A. No. This looks correct.

19 Q. Okay. Mr. Sharma, you see that?

20 A. Yes.

21 Q. He was terminated on May 17th, 2004. Do you know
22 if he was, if he was eligible to go to Allstates?

23 A. Yes.

24 Q. Do you know if he was asked to go to Allstates?

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1 A. That's not something we would do is ask someone
2 to go to Allstates. I don't understand the question.

3 Q. When you terminate somebody, do you make them
4 aware that they could secure a job through Allstates?

5 A. We make them aware that we can let Allstates know
6 that they are looking for a job and Allstates can see if
7 they can find one for them.

8 Q. Did you tell Mr. Sharma that, that you could let
9 Allstates know that he was out of work, if he was
10 interested he could get a job with Allstates?

11 A. I told him that he should apply for a job with
12 Allstates.

13 Q. Okay. Do you know if he did that?

14 A. I believe Sharma did, because I believe, if I
15 remember, Allstates coming to me and asking me if he
16 would be a good fit for a certain opportunity Allstates
17 had outside of the BE&K arena.

18 Q. What did you say?

19 A. I believe I said yes.

20 Q. Dick Robbins was terminated on May 21, 2004, and
21 then it says here he was recalled by Allstates. Do you
22 see that?

23 A. Yes.

24 Q. Do you know if he started working on BE&K

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1 have been consulted because we wouldn't have known it was
2 him. It happens that way many times.

3 Q. Do you know why Mr. Perez was the process
4 engineer on that project?

5 A. It was most likely an issue of availability at
6 that time. Possibly if he was involved -- this is what I
7 don't know, if he was involved in the budget, because he
8 may have been involved in the marketing, market
9 development of that job and the budgeting.

10 Q. Do you know if the client requested for him to
11 work on that project?

12 A. No.

13 Q. You don't know that?

14 A. I don't know.

15 Q. Okay. Do you know if there was a decision made
16 not to consult engineers -- let me rephrase.

17 Do you know if there was a decision made to
18 underbudget with respect to that project because it was a
19 new client and the company wanted to ensure that they
20 would have repeat business with Motiva?

21 A. I don't know that's the case with that job, but
22 we have done that in the past.

23 Q. So you have done that in the past where the
24 company has underbudgeted with respect to a new client to

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1 ensure that they have repeat business?

2 A. To get in the door.

3 Q. Okay. When that has been done in the past, does
4 that sometimes result in the engineers going over the
5 budget?

6 A. Yes.

7 Q. Go ahead.

8 A. When I'm talking about underbudgeting, we may be
9 talking about 5 or 10 percent drop from the budget. And
10 typically what I always try to do is to keep our
11 originally budgeted hours as the plan hours for
12 engineers. So it is done with that understanding.

13 Q. If Mr. Perez were to testify that the reason why
14 he went over budget in the Motiva project was because he
15 was not consulted before the budget was done and the
16 company had made a decision to underbudget since it was a
17 new client and they wanted to ensure that they would have
18 repeat business, would he be lying?

19 A. There's a few statements you made in that
20 statement which I'd like to split out.

21 If he testified that he overran the budget
22 because he was not consulted, I'm not saying he's lying,
23 but that's not a correct statement, because we use very
24 generous norms in our budgeting process and all engineers



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1 should be able to do the hours within those budgets.

2 If he feels that the budget was cut from
3 those norms and, therefore, he overran the budget, he may
4 have some legitimacy in saying that. However, if he
5 overran the budget -- and I can't recall by how much he
6 overran the budget, but if he overran the budget by
7 50 percent, that -- that would be unreasonable to say it
8 is because we cut the budget slightly, because we have
9 never cut the budget by that amount to win a job.

10 Q. Do you believe the fact that he went over the
11 budget on the Motiva project was solely his fault?

12 A. Predominantly his fault.

13 Q. Why do you say "predominantly his fault"?

14 A. Because there may have been some cutting of the
15 budget to get in the door and so a piece of that may have
16 been because the company cut the budget.

17 Q. Do you recall any other times that Mr. Perez
18 helped BE&K secure new business besides Motiva?

19 A. I believe the Tosco job may have been through his
20 relationship as well.

21 Q. Any other jobs that you can remember?

22 A. I think that's it.

23 Q. Okay. I'm going to ask you to help me confirm
24 who was in your department at the time Mr. Perez was let



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1 Q. Okay. I understand you may have had another
2 document?

3 A. I would have my own list of the people that are
4 in my group. I did not use an official HR list. I would
5 have had my own list.

6 Q. The people on Howe 1, were all of them working at
7 the process department when you were making the decision
8 to let someone go?

9 A. Yes.

10 Q. Okay. Other than these people on Howe 1, D 28,
11 is there anybody else that you considered as well who may
12 not be on this list?

13 A. We may have considered a few people at Chambers
14 Works.

15 Q. When you say --

16 A. At our site. We have -- we would have had 2 or 3
17 process engineers at the Chambers Works site at that
18 moment in time. They are someone that could have been
19 considered for layoff as well.

20 Q. Do you know if you definitely considered them or
21 you are not sure?

22 A. I'm just saying they could have been considered.
23 But I don't think I considered them, because they were --
24 again, effectively they are in a project environment

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Peter Howe

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1 there. They have been asked to come there. They are in
2 the middle of projects.

3 Q. I understand, just like there were people on Howe
4 1 that were on projects --

5 A. I would have considered these are the names, the
6 names are on here. There's a few extras such as the
7 people at Chambers Works that would not have been in the
8 process department list that I would have considered.

9 Q. For example, Mark Beitler is not on Howe 1. He
10 is somebody you would have considered?

11 A. Yes.

12 Q. William Robinson is on Howe 1. Whether or not he
13 was at Chambers Works at the time, he was somebody you
14 considered?

15 A. Yes.

16 Q. And you said there was -- Poprik is on Howe 2,
17 not on Howe 1, but he is somebody that you considered?

18 A. Yes.

19 Q. So Mark Beitler ---

20 A. Dan Poprik was laid off.

21 Q. When was he laid off?

22 A. I forget the date.

23 Q. Was it in 2003?

24 A. Most likely after that.

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